Supreme Court, U.S.
FILED
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No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

JOHN E. DU PONT,

Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA,

Respondents.

On Petition for Writ of Certiorari to the Superior Court of Pennsylvania

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

1. Whether this Court should resolve the longstanding conflict among state and federal courts over whether the Fifth Amendment permits the introduction of a criminal defendant's pre-arrest silence as substantive evidence of the defendant's guilt.

2. Whether the Due Process Clause prohibits a State from denying a criminal defendant the right to present evidence of involuntary intoxication, where that defense has deep historical roots in Anglo-American jurisprudence and in fundamental principles of justice.

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II. THE DECISION BELOW DEPARTS FROM ESTABLISHED PRINCIPLES OF DUE PROCESS BY HOLDING THAT PENNSYLVANIA LAW DOES NOT RECOGNIZE THE DEFENSE OF INVOLUNTARY INTOXICATION. 18

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OPINIONS BELOW

The Supreme Court of Pennsylvania's order denying discretionary review of petitioner's appeal from the denial of post-conviction relief is published at 889 A.2d 87 and reprinted at App. 1a. The Superior Court of Pennsylvania's decision affirming the denial of petitioner's petition for post-conviction relief is published at 860 A.2d 525 and reprinted at App. 2a-24a. The Court of Common Pleas' unpublished decision denying petitioner's petition for post-conviction relief is reprinted at App. 25a-78a.

JURISDICTION

The Superior Court of Pennsylvania rendered its decision on September 17, 2004, App. 2a-24a, and du Pont filed a timely petition for discretionary review of that decision in the Supreme Court of Pennsylvania. That court denied discretionary review of the decision below on October 25, 2005. App. 1a. On January 11, 2006, Justice Souter extended the time to file this petition until March 9, 2006. This Court has jurisdiction under 28 U.S.C. § 1257(a).

PERTINENT STATUTORY PROVISIONS

The Fifth Amendment to the United States Constitution provides, in pertinent part:

> No person ... shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

The Sixth Amendment to the United States Constitution provides, in pertinent part:

> In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defense.

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.

STATEMENT OF THE CASE

A. Factual Background

For much of his adult life, petitioner John E. du Pont was known as one of the greatest private benefactors of amateur wrestling in American history. In addition to serving as a representative to FILA—the governing body for wrestling under the International Olympic Committee—du Pont operated a renowned training facility for promising wrestlers on his sprawling "Foxcatcher Farm" estate in rural Pennsylvania. There, he presided over a world-class wrestling team know as Team Foxcatcher, and he offered many of the team's wrestlers monthly stipends and housing in private residences across Foxcatcher Farm's 800 acres.

Beginning in the early 1990's, however, petitioner began to display signs of acute paranoid schizophrenia.[1] He started requiring employees to take lie detector tests in order to determine whether they would harm him. He believed he possessed objects that gave him enormous power, including the Shroud of Turin. And he began to identify himself as the head of the Buddhist Church, the Dalai Lama, the "co-Fuhrer," the "leader of the Third Reich," the "holy child," the president of Bulgaria, the president of the United States, and the "crown prince of Russia."

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[1] The discussion of petitioner's medical condition here relates to the period before his arrest and up to June 24, 1997, when his use of anti-psychotic medication terminated. This discussion in no way reflects his current mental state, which is not an issue in this petition.